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FM SECSTATE WASHDC

TO AMEMBASSY MANILA

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E.O. 11652: N/A

TAGS: ETRD, RP

SUBJECT: PHILIPPINE ECONOMIC NEGOTIATIONS

FOLLOWING FOR EMBASSY'S INFORMATION ARE TEXT OF REVISED
ARTICLE 13 OF U.S. DRAFT ECONOMIC TREATY AND REVISED
DEFINITION OF "NON-DISCRIMINATORY TREATMENT", AS TABLED BY
U.S. DELEGATION APRIL 5, 1976.

QUOTE ARTICLE 13. ESTABLISHMENT AND OPERATION OF ENTER-
PRISES

QUOTE 1. EACH PARTY, RECOGNIZING THE CONTRIBUTION WHICH
MAY BE MADE TO THE DEVELOPMENT AND EXPANSION OF THEIR
RESPECTIVE ECONOMIES BY PRIVATE DIRECT INVESTMENT, SHALL
ENDEAVOR TO FACILITATE INVESTMENTS BY NATIONALS AND
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COMPANIES OF THE OTHER PARTY, SUBJECT TO THE FURTHER
PROVISIONS OF THIS CHAPTER.

QUOTE 2. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, NATIONALS AND COMPANIES OF EITHER PARTY SHALL BE ACCORDED NON-DISCRIMINATORY TREATMENT WITHIN THE TERRITORIES OF THE OTHER PARTY, WITH RESPECT TO THE ESTABLISHMENT, ACQUISITION OF INTERESTS IN, MAINTENANCE AND OPERATION OF ENTERPRISES ENGAGED IN COMMERCIAL, INDUSTRIAL, FINANCIAL OR OTHER BUSINESS ACTIVITIES; AND SUCH TREATMENT SHALL LIKEWISE BE ACCORDED TO NATIONALS AND COMPANIES OF EITHER PARTY WITH RESPECT TO ENTERPRISES WHICH THEY ESTABLISH, ACQUIRE INTERESTS IN, MAINTAIN OR OPERATE JOINTLY WITH NATIONALS AND COMPANIES OF THE OTHER PARTY.

QUOTE 3. EACH PARTY RESERVES THE RIGHT TO LIMIT THE EXTENT TO WHICH ALIENS MAY ESTABLISH, ACQUIRE INTERESTS IN, OR CARRY ON ENTERPRISES ENGAGED WITHIN ITS TERRITORIES IN THE MASS MEDIA AND TELECOMMUNICATIONS, AIR, LAND OR WATER TRANSPORT, THE FURNISHING OF ELECTRICITY, WATER AND GAS, TRUST FUNCTIONS, BANKING INVOLVING DEPOSITORY FUNCTIONS, RETAIL TRADE, OR THE EXPLOITATION OF LAND OR OTHER NATURAL RESOURCES. HOWEVER, WITH REGARD TO NEW LIMITATIONS IN THESE FIELDS IMPOSED BY EITHER PARTY UPON THE EXTENT TO WHICH ALIENS OR COMPANIES OWNED OR CONTROLLED BY ALIENS ARE PERMITTED TO CARRY ON SUCH ACTIVITIES WITHIN ITS TERRITORIES, TO THE EXTENT THAT THE NEW LIMITATIONS ARE NOT ALSO APPLIED TO NATIONALS AND ENTERPRISES OF THE PARTY IMPOSING THEM, THE NEW LIMITATIONS SHALL NOT BE APPLIED AGAINST NATIONALS OR COMPANIES OF THE OTHER PARTY OR TO ENTERPRISES OWNED OR CONTROLLED BY THEM WITH RESPECT TO ACTIVITIES IN WHICH SUCH NATIONALS OR ENTERPRISES ARE ALREADY ENGAGED AT THE TIME THAT SUCH NEW LIMITATIONS ARE IMPOSED.

QUOTE 4. NOTHING IN THIS TREATY SHALL PREVENT EITHER PARTY FROM ESTABLISHING AND ENFORCING REQUIREMENTS REGARDING A SCHEDULE FOR TRANSFERRING THE CONTROL OF AN ENTERPRISE OWNED OR CONTROLLED BY NATIONALS OR COMPANIES OF ONE PARTY TO NATIONALS OF THE PARTY IN WHOSE TERRITORY IT IS BEING ESTABLISHED; PROVIDED THAT ANY SUCH SCHEDULE LIMITED OFFICIAL USE
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IS ESTABLISHED AND MADE KNOWN IN ADVANCE OF THE ESTABLISHMENT IN ITS TERRITORY OF THE ENTERPRISE OWNED OR CONTROLLED BY NATIONALS OR COMPANIES OF THE OTHER PARTY TO WHICH THE SCHEDULE WILL APPLY.

QUOTE 5. EACH PARTY RESERVES THE RIGHT TO LIMIT THE EXTENT TO WHICH ALIENS MAY ENGAGE IN PROFESSIONS, WHICH, BECAUSE THEY INVOLVE THE PERFORMANCE OF FUNCTIONS IN A PUBLIC CAPACITY OR IN THE INTEREST OF PUBLIC HEALTH AND SAFETY, ARE STATE-LICENSED AND RESERVED BY LAW TO

NATIONALS OF SUCH PARTY. END QUOTE.

QUOTE DEFINITIONS

QUOTE NON-DISCRIMINATORY TREATMENT

QUOTE THE TERM "NON-DISCRIMINATORY TREATMENT" MEANS TREATMENT ACCORDED WITHIN THE TERRITORIES OF A PARTY ON TERMS

NO LESS FAVORABLE THAN THE TREATMENT ACCORDED THEREIN, IN LIKE SITUATIONS, TO ENTERPRISES, NATIONALS, COMPANIES, VESSELS, OR OTHER OBJECTIVES, AS THE CASE MAY BE, OF SUCH PARTY AND IN NO CASE LESS FAVORABLE THAN THAT ACCORDED TO NATIONALS AND COMPANIES OF ANY THIRD COUNTRY; PROVIDED HOWEVER THAT NOTHING IN THIS TREATY SHALL PREVENT THE PHILIPPINES FROM LIMITING TO ITS OWN ENTERPRISES, NATIONALS, COMPANIES OR OTHER OBJECTS THE ENJOYMENT OF TAX AND CREDIT INCENTIVES GRANTED UNDER THE FOLLOWING ENACTMENTS:

QUOTE (A) SECTION 6 OF THE INVESTMENT INCENTIVES ACT (REPUBLIC ACT NO. 5186),

QUOTE (B) SECTION 5 AND SECTION 7(B) OF THE EXPORT INCENTIVES ACT (REPUBLIC ACT NO. 6135), AND

QUOTE (C) SECTION 9 OF THE INVESTMENT INCENTIVES PROGRAM FOR THE TOURISM INDUSTRY (P.D. 535) SO FAR AS THEY WERE IN FORCE ON, AND HAVE NOT BEEN MODIFIED SINCE, THE DATE OF SIGNATURE OF THIS TREATY OR HAVE BEEN MODIFIED ONLY IN LIMITED OFFICIAL USE

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MINOR, NON-SUBSTANTIVE RESPECTS; AND EXCEPT TO THE EXTENT THAT SUCH INCENTIVES AND CREDITS ARE EXTENDED TO NATIONALS OR COMPANIES OF A THIRD COUNTRY. END QUOTE

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